

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION**

UNITED STATES OF AMERICA                          )  
  )  
  )  
v.   ) CAUSE NO.: 2:15-CR-96-JTM-JEM  
  )  
RICHARD BALDERAS,                                  )  
  )  
Defendant.   )

**FINDINGS AND RECOMMENDATION OF THE MAGISTRATE JUDGE  
UPON A SUPERVISED RELEASE REVOCATION HEARING**

TO: THE HONORABLE JAMES T. MOODY,  
UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF INDIANA

On December 11, 2018, the United States Government appeared by counsel Assistant United States Attorney Nicholas Padilla. Defendant Richard Balderas appeared in person and by counsel Adam Tavitas and in the custody of the United States Marshal. United States Probation Officer Robert Bono appeared. The Supervised Release Revocation Hearing was held. The Court received evidence and comments.

Based upon the record of proceedings the Court makes this Report and Recommendation.

On April 26, 2016, Defendant Balderas pled guilty to the Count I charge in the Indictment (felon in possession of a firearm). On August 10, 2016, Judge James T. Moody originally sentenced Defendant Balderas to, among other things, a term of imprisonment followed by 24 months of supervised release subject to specified written terms and conditions.

On March 22, 2017, the Government filed a Petition alleging that the Defendant violated the terms and conditions of his supervised release [DE 43], and an arrest warrant was issued. On October 3, 2018, Defendant Balderas was arrested and an Initial Appearance was held.

On November 20, 2018, Defendant Balderas, by counsel, filed a Motion to Transfer to Magistrate Judge, which was granted, and on November 21, 2018, Judge James Moody issued an

Order referring this case to the undersigned Magistrate Judge to conduct the Supervised Release Revocation Hearing, to recommend modification, revocation, or termination of the supervised release in this case, and to submit proposed findings and recommendations pursuant to 18 U.S.C. § 3401(i), 28 U.S.C. § 636(b)(1)(B), and N.D. Ind. Local Rule 72-1.

As a result of the December 11, 2018, Supervised Release Revocation Hearing, the undersigned Magistrate Judge **FINDS** that:

1. Defendant Balderas has been advised of his right to remain silent, his right to counsel, his right to be advised of the charges against him, his right to a contested Supervised Release Revocation Hearing, and his rights in connection with such a hearing;
2. Defendant Balderas understands the proceedings, allegations and his rights;
3. Defendant Balderas knowingly and voluntarily admitted that he committed each of the violations set forth in the March 22, 2017 Petition [DE 43] and that those allegations are true;
4. These violations are Grade B and C violations, Defendant's criminal history category is I, and the advisory guideline range is 4 to 10 months imprisonment.

The undersigned Magistrate Judge **RECOMMENDS** to Judge James Moody that:

1. Defendant Balderas be adjudged to have committed a violation of his supervised release described in the March 22, 2017 Petition [DE 43];
2. The supervised release of Defendant Balderas be revoked;
3. Defendant Balderas be ordered committed to the United States Bureau of Prisons forthwith to serve one year and one day of additional imprisonment therein; and

4. After successful completion of the additional term of imprisonment Defendant Balderas not continue on supervised release.

The parties agreed to waive any objections to these Findings and Recommendation.

SO ORDERED this 11th day of December, 2018.

s/ John E. Martin

MAGISTRATE JUDGE JOHN E. MARTIN  
UNITED STATES DISTRICT COURT

cc: All counsel of record  
District Judge James Moody